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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92051265
Party	Defendant Lopez, Ricardo A
Correspondence Address	Lopez, Ricardo A 10265 Rookwood Dr San Diego, CA 92123 UNITED STATES
Submission	Answer
Filer's Name	Bret Hamelin
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Signature	/Bret Hamelin/
Date	09/01/2009
Attachments	090901.answer.pdf (6 pages)(173254 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Manzanilla La Pastora, S.A. de C.V.	§	
	§	
Petitioner.	§	
	§	
v.	§	Registration No. 3623666
	§	Registered 05-19-2009
	§	
Ricardo A. Lopez	§	Cancellation No. 92051265
Hector Lezama-Lopez	§	
Maria Montserrat Verdugo-Sanchez	§	
	§	
Respondents.	§	
	§	
	§	

ANSWER

Here now comes Respondents Ricardo A. Lopez, Hector Lezama-Lopez, and Maria Montserrat Verdugo-Sanchez, (hereinafter the "Respondents"), who answers Petitioner Manzanilla La Pastora, S.A. de C.V.'s, (hereinafter "Petitioner"), Petition for Cancellation as follows:

1. Respondents do not have knowledge or information sufficient to form a belief as to the truth of this statement, and as such, deny.
2. Respondents do not have knowledge or information sufficient to form a belief as to the truth of this statement, and as such, deny.
3. Deny.
4. Deny.
5. Admit.
6. Admit that counsel for Petitioner sent the April 25, 2008 letter, attached as Exhibit A to the Petition. Admit that on or about March 25, 2009, Respondents filed the verified Statement of Use. Respondents do not currently have knowledge or information sufficient to form a belief as to the truth of the rest of this statement, and as such, deny.

7. Admit that Exhibits B & C of the Petition were attached to the Statement of Use. Deny all other allegations.

8. Admit that Respondent's website contains an image of a sample product. Deny all other allegations.

9. Admit that Exhibits E & F of the Petition were exchanged containing the information therein. Deny all other allegations.

10. Deny.

11. Deny.

12. Deny.

13. Deny.

14. Deny.

15. Deny.

FIRST AFFIRMATIVE DEFENSE

As a first, separate, and affirmative defense to the Petition for Cancellation, the Answering Respondents allege that the Petitioner's purported causes of action against the Answering Respondents are barred by the equitable doctrine of unclean hands in that the Petitioner was the sole and proximate cause of the damage complained of herein.

SECOND AFFIRMATIVE DEFENSE

As a second, separate, and affirmative defense to the Petition for Cancellation, the Answering Respondents allege that the Petitioner's purported causes of action against the Answering Respondents alleges that any and all injury and damage incurred by the Petitioner was caused by the Petitioner's failure to mitigate its damages.

THIRD AFFIRMATIVE DEFENSE

As a third, separate, and affirmative defense to the Petition for Cancellation, the Answering Respondents allege that the Petitioner's purported causes of action against the Answering Respondents are barred by the equitable doctrine of estoppel.

FOURTH AFFIRMATIVE DEFENSE

As a fourth, separate, and affirmative defense to the Petition for Cancellation, the Answering Respondents allege that any and all injury and damage complained of herein was caused by entities and/or people other than the Answering Respondents.

FIFTH AFFIRMATIVE DEFENSE

As a fifth, separate, and affirmative defense to the Petition for Cancellation, the Answering Respondents allege that any and all injury and damage complained of herein was caused by the Petitioner.

SIXTH AFFIRMATIVE DEFENSE

As a sixth, separate, and affirmative defense to the Petition for Cancellation, the Answering Respondents allege that the Petitioner failed to state facts sufficient to support a claim for relief.

SEVENTH AFFIRMATIVE DEFENSE

As a seventh, separate, and affirmative defense to the Petition for Cancellation, the Answering Respondents allege that claims for relief against these Respondents are barred by the applicable doctrine of Laches.

EIGHTH AFFIRMATIVE DEFENSE

As a eighth, separate, and affirmative defense to the Petition for Cancellation, the Answering Respondents allege that claims for relief against these Respondents are barred by the doctrine of contributory negligence.

NINTH AFFIRMATIVE DEFENSE

As a ninth, separate, and affirmative defense to the Petition for Cancellation, the Respondents allege that claims for relief against these Respondents are barred by Petitioner's assumption of the risk.

TENTH AFFIRMATIVE DEFENSE

As a tenth, separate, and affirmative defense to the Petition for Cancellation, the Answering Respondents allege that claims for relief against these Respondents are barred by the doctrine of release.

ELEVENTH AFFIRMATIVE DEFENSE

As an eleventh, separate, and affirmative defense to the Petition for Cancellation, the Answering Respondents allege that claims for relief against these Respondents are barred by the doctrine of waiver.

TWELFTH AFFIRMATIVE DEFENSE

As twelfth, separate, and affirmative defense to the Petition for Cancellation, the Answering Respondents allege that the claims are barred by all other affirmative defenses which are available to the Respondents but are at present unknown to them, and the Answering

Respondents reserve the right to amend and supplement their answer to the Petition for Cancellation once discovery is completed.

WHEREFORE Respondents Ricardo A. Lopez, Hector Lezama-Lopez, and Maria Montserrat Verdugo-Sanchez.

- a. That Petitioner takes nothing,
- b. For costs of suit,
- c. For such other further relief as the Court may deem proper.

Respectfully submitted,

Bret Hamelin
BRET GREGORY HAMELIN, A.P.L.C.
Attorney for Respondents
Ricardo A. Lopez, Hector Lezama-Lopez,
Maria Montserrat Verdugo-Sanchez

Date: August 31, 2009.

By: 

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on September 1, 2009, the foregoing **Answer** was served by first-class mail, postage paid, on the following:

David Bell & Melissa S. LaBauve
HAYNES AND BOONE, LLP
2323 Victory Avenue, Suite 700
Dallas, TX 75219-7673

A handwritten signature in black ink, appearing to read 'Bret Hamelin', written over a horizontal line.

Bret Hamelin, Attorney for Respondents
Ricardo A. Lopez, Hector Lezama-Lopez,
Maria Montserrat Verdugo-Sanchez